

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:96CR46
	)	
v.	)	
	)	
LEON DELMAR MILTON,	)	ORDER
	)	
Defendant.	)	
	)	

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On March 3, 2008, the defendant filed a motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c) and U.S.S.G. 1Bl.10 (Filing No. 534). By order dated April 9, 2008, the Court filed an order denying defendant's motion as he was not entitled under the modification to the crack cocaine guidelines for a reduction of sentence (Filing No. 537). Subsequently, the defendant filed a motion to amend his prior motion (Filing No. 538). That motion is moot and will be denied.

On April 23, 2008, the defendant filed a motion for reconsideration (Filing No. 540) and on November 16, 2009, delivered a document entitled "Judicial Notice" to the Court. That notice has been docketed as Filing No. 560.

The Court has considered the motion for reconsideration and the filing entitled "Judicial Notice" and finds that defendant's motion should be denied. While the United States Sentencing Guidelines regarding crack cocaine have been modified, the United States Court of Appeals for the Eighth Circuit has

clearly stated that these modifications do not entitle defendant to a new hearing, and the Court's authority is limited to recalculating the sentence under the guidelines as if those guidelines were in effect when the defendant was originally sentenced. It is for these reasons, the motion will be denied. Accordingly,

IT IS ORDERED:

- 1) Defendant's motion to amend motion for reduction of sentence (Filing No. 538) is denied as moot.
- 2) Defendant's motion for reconsideration (Filing No. 540) is denied.

DATED this 1st day of February, 2010.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court